EXHIBIT 3
Filed Under Seal

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division
CASE NO. 2:18CV530

CSX TRANSPORTATION, INC.,
INDIVIDUALLY AND ON BEHALF OF NORFOLK
& PORTSMOUTH BELT LINE
RAILROAD COMPANY,
Plaintiffs,
-vs-

NORFOLK SOUTHERN RAILWAY
COMPANY, NORFOLK & PORTSMOUTH
BELT LINE RAILROAD COMPANY,
JERRY HALL, THOMAS HURLBUT,
PHILIP MERILLI, and CANNON MOSS,

Defendants.
_____/

Zoom Remote Proceedings
Wednesday, March 17, 2021
1:19 p.m. - 6:37 p.m.

VIDEOTAPED TELECONFERENCE DEPOSITION OF ROB GIRADOT

Taken before Robyn Maxwell, RPR, FPR, RSA, and Notary Public in and for the State of Florida at Large, pursuant to Notice of Taking Deposition filed in the above-mentioned cause.
Job No. CS4501152

we're up against the hour and a half?

MR. CHAPMAN: I'm fine with that.

THE VIDEOGRAPHER: All right we're off the record at 4:35 p.m., and this is the end of media number two, the time is 4:35 p.m.)

(Recess taken, 4:35 p.m. to 4:46 p.m.)

THE VIDEOGRAPHER: We are back on the record. This is the beginning of media unit number three. The time it 4:46 p.m.

BY MR. CHAPMAN:

Q. Mr. Girardot, before we went off the record, I had asked you about CSX's efforts to maximize the utilization of its rail equipment, and I think you said, yes, of course it would do that?

And I just wanted to follow that up by making sure that -- that I understand that -- would that also include maximizing the utilization of intermodal rail equipment such that you would load as many containers as you reasonably can into wells?

A. Yes, we -- that's -- we do that okay.

Q. So getting back to the question about the 1.76 containers per well assumption, I wasn't sure where that came from. And there was an objection about the fact that the exhibit was not in front of you, and I think we were able to put that on the screen now.

If we can put what was marked as Exhibit 18 at the CSXT 30(b)(6) deposition from January. All right.

Can you see that, Mr. Girardot?

A. I can't see the whole -- I mean, maybe you can scroll down a little bit. I can see the top part of it. Stop. Good. Okay; now I can see it.

Q. Okay. First of all, can you show us where the 1.67 containers per well assumption appears on this spreadsheet?

A. It -- you know, it's not -- it's not on there.

Q. Okay. Is it somehow in the data itself?

A. Well, I think that if you take the number of wells, right, divided by the number of containers, right, that it -- it would -- it would come out to that 1.67.

Q. So can you point us to the line or columns where that information appears?

A. Well, we're -- somehow we're using 40,000 containers and then if you take that for -- you know, the -- the revenue divided by 210, right, that's the number of wells, right. And then you take the number -- the well -- the number of wells and you move 40,000 containers with that, that that would come out to the 1.67. I believe that's how the math works. I have to

get my -- I have to get a calculator out.

Q. So 40,000 containers are moving in how many wells?

A. Well, let's do the --

MS. PETERSON: Mr. Chapman --

MR. CHAPMAN: Yes.

MS. PETERSON: Do you all happen to have the native version of this Excel as it was produced because I think that might be helpful, you know, just to kind of shortcut this a little bit where this is not the document as it was produced by CSX.

MR. CHAPMAN: Yeah, I'm sure we do have it, but it's not in this portal, this exhibit portal.

MS. PETERSON: I think we can pull it up if we need to. I mean, we do have that available so you can look at it in the Excel form.

MR. CHAPMAN: Okay. Let me -- let me just see how far I can get with this.

MS. PETERSON: Okay. We can -- we can always do it later.

BY MR. CHAPMAN:

Q. I get the base amount volume at the top, 2017 actuals, 40,000 containers. How many -- how many wells would that involve then?

A. I mean, 5 million divided by 210 would be the number of wells.

Q. I'm sorry, you said 5 million divided by $210?

A. Right, because we're -- this is figured out at $210 per well. And so -- so -- so the number of wells would be 5 million divided by 210.

Q. Right. So if you don't have a calculator in front of you, it's close to 24,000 wells?

A. All right.

Q. Okay.

A. So if you divide 40 by 24,000, I think that gets you 1.67.

Q. So that's how you -- how you've backed into it in term of this calculation, it just didn't jump out as a line item on this spreadsheet, correct?

A. That's correct.

Q. Okay. So I understand that's an assumption because that's what it says in your declaration. What is that assumption then based on?

A. That's basically our -- our experience for international traffic going in and out of ports. That's -- you know, that time period probably would have been based on, you know, the prior year's results. You know, that's kind of the ballpark -- ballpark good

walking around number, you know.

Q. So my question is: What data did you pull to arrive at that determination of 1.67?

MS. PETERSON: Objection; lack of foundation.

A. That's just a good walking around number. I mean, that's just, like a, you know -- it's just a general metric, you know.

BY MR. CHAPMAN:

Q. That lives where in the CSX system?

A. That's just based on experience. I mean --

Q. Your personal experience?

A. That's my personal experience and kind of eyeballing train consists and looking at how many, you know, cars and containers -- I mean, just -- that's just a good number.

Q. And I'm not suggesting that you're not a human calculator, Mr. Girardot, but I'm jut trying to find out if there's any data -- real data that -- that you pulled or turned to -- to arrive at that number?

A. No I -- I didn't, no.

Q. But it formed the basis of this document that is Exhibit 18 from the earlier depositions that we're now looking at, correct?

A. That's right. Yeah, I think, you know,

that -- you know, when you do feasibility studies like this, you -- you come up with numbers that are realistic. They're not ideal numbers. They're -- they're what you generally experience. You know, like we sort of have a walking around number that -- that, you know, it's -- for international traffic, it's 30 feet per container, you know.

Q. So the exhibit also references, near the [redacted]

Do you see that?

A. Yeah.

Q. And if we express that in percentages, would it be 60 percent export and 40 percent import?

A. That's correct, yeah.

Q. Does your analysis assume that the import containers are spread evenly across railcar wells that are used to bring the export traffic into NIT?

MS. PETERSON: I'm just going to object for lack of foundation here. This is a 30(b)(6) exhibit so I don't think that we've established whether Mr. Girardot himself prepared it without any other input.

MR. CHAPMAN: Well, I'm only asking because he specifically referenced it in this declaration

that I think I'm entitled to ask some questions about. So I'm just trying to understand it.

A. Well, these are averages of averages, Mr. Chapman and, you know, sometimes you pull -- put empty cars in, sometimes you pull empty cars out in the same week. Certain months are heavier on exports than they are on imports in certain months. Certain times of the week imports are heavier. So average of averages of averages. These are good scenario level numbers that I think are very realistic when I saw them. They are very realistic. They fit very well with my experience watching trains roll in and out of ports.

BY MR. CHAPMAN:

Q. Did you have any or provide any assistance in the preparation of this document?

A. Yeah, I'm sure I did. And, again, you do a document like this, it's -- you don't know what the future is going to be and you look at what are some sort of reasonable averages in a realistic world. And these are reasonable averages in a realistic world moving in and out of a -- of a port that's -- that's not balanced; import versus export it's not balanced sequentially through the course of the week. If anything, the numbers are very, you know, favorable as far as to try and -- far as trying to -- trying to convince -- you know, I think